

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

PLANNED PARENTHOOD SOUTH)
ATLANTIC, *et al.*,)
)
)
Plaintiffs,)
)
)
v.)
)
)
JOSHUA STEIN, *et al.*,) Case No. 1:23-cv-00480-CCE-LPA
)
)
Defendants,)
)
)
and)
)
PHILIP E. BERGER, *et al.*,)
)
)
Intervenor-Defendants.)

JOINT MOTION TO CONTINUE
LOCAL RULE 16.1 INITIAL PRETRIAL CONFERENCE

In light of a scheduling conflict between court dates in this case, and the parties' agreement that additional discovery, if any, should be postponed until after the Court's resolution of the pending amended motion for a preliminary injunction, the parties jointly move pursuant to LR 6.1(b) for a continuance of the Local Rule 16.1 initial pretrial conference currently set for September 25, 2023.

First, Plaintiffs' amended motion for a preliminary injunction is set for hearing at 9:30 a.m. on September 25, 2023. DE 73. This hearing was rescheduled from September 21, 2023, *see* DE 51, and now conflicts with the Local Rule 16.1 initial pretrial conference that is currently also scheduled for 9:30 AM on September 25, 2023.

Second, because the parties agree that additional discovery should be postponed until after the Court resolves the pending motion for a preliminary injunction, no party will be prejudiced by a continuance of the Local Rule 16.1 initial pretrial conference.

Pursuant to the Court's July 6, 2023 Scheduling Order, the parties completed expedited discovery related to the preliminary injunction motion on September 6, 2023. During this expedited discovery period, Plaintiffs and Intervenor-Defendants exchanged written discovery requests and responses, produced documents, and conducted depositions of the four witnesses who submitted declarations in support of the preliminary injunction briefing.

The Court's July 6, 2023 Scheduling Order further provides that any additional discovery needed for dispositive motions or trial shall be concluded by January 31, 2024. At this time, the parties believe that they will be able to complete all discovery by this date. However, at their Fed. R. Civ. P. 26(f) conference held on Monday, September 11, the parties agreed that the conducting of additional discovery should be postponed pending determination of the pending motion for a preliminary injunction, as that order will likely provide direction on what additional discovery, if any, is needed. Given that one of the challenged provisions is set to take effect October 1, 2023, and that the Court's Scheduling Orders provide for all briefing and argument to be completed by September 25, 2023, the parties anticipate that the Court will enter an order resolving the preliminary injunction motion before October 1, 2023.

The parties therefore respectfully propose that the Local Rule 16.1 initial pretrial

conference be re-set for no sooner than 30 days after entry of the Court's order resolving the pending amended motion for a preliminary injunction. The parties propose a minimum window of 30 days to allow time for any interlocutory appeal from that order under Fed. R. App. P. 4(a)(1)(A). If there is no appeal, this window will also ensure that the parties have adequate time in which to convene another Rule 26(f) conference and submit an amended 26(f) report for the Court's consideration.

Concurrently with the filing of this joint motion, the parties are filing a joint Rule 26(f) report proposing that the Local Rule 16.1 initial pretrial conference currently set for September 25, 2023 be moved in accordance with this proposed schedule.

For the foregoing reasons, the parties respectfully move for a continuance of the initial pretrial conference from September 25, 2023, to a date no sooner than 30 days after the Court enters an order resolving the pending amended motion for a preliminary injunction.

Date: September 15, 2023

Respectfully submitted,

FOR ALL PLAINTIFFS:

/s/ Kristi Graunke

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CERTIFICATE OF SERVICE

I hereby certify that, on September 15, 2023, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which served notice of this electronic filing to all counsel of record.

/s/ Hannah Swanson

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**Special appearance filed*